

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

**THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 1st day of September, two thousand and six.

PRESENT:

HON. GUIDO CALABRESI,  
HON. SONIA SOTOMAYOR,  
HON. RICHARD C. WESLEY,  
*Circuit Judges.*

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Dhruba Bahadur Shrestha, Diwa Pradhan Shrestha  
*Petitioners,*

v.

No. 06-0872-ag  
NAC

Alberto R. Gonzales, Attorney General of the United States,  
*Respondent.*

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FOR PETITIONER: H. Raymond Fasano, New York, New York.

FOR RESPONDENT: David C. Iglesias, United States Attorney, District of New Mexico,  
David N. Williams, Assistant United States Attorney,  
Albuquerque, New Mexico.

UPON DUE CONSIDERATION of this petition for review of a decision of the Board of Immigration Appeals (“BIA”), it is hereby ORDERED, ADJUDGED, AND DECREED, that the

petition for review is DISMISSED.

Dhruba Bahadur Shrestha and Diwa Pradhan Shrestha , through counsel, seeks review of a January 31, 2006 order of the BIA affirming the October 28, 2004 decision of immigration judge (“IJ”) William Van Wyke’s denying Dhruba Shrestha’s applications for asylum, withholding of removal, and relief under the Convention Against Torture. *In re Dhruba Bahadur Shrestha, Diwa Pradhan Shrestha*, Nos. A96 256 721, A96 256 722 (B.I.A. January 25, 2006), *aff’g* Nos. A96 256 721, A96 256 722 (Immig. Ct. N.Y. City Oct. 28, 2004). We assume the parties’ familiarity with the underlying facts and procedural history of the case.

We may not review petitioner's arguments regarding the Government’s failure to comply with 8 C.F.R. § 1208.11(a) because these arguments have not been exhausted at the administrative level. *See* 8 U.S.C. § 1252(d)(1); *see generally Gill v. INS*, 420 F.3d 82, 86 (2d Cir. 2005) (explaining that, in the absence of manifest injustice, petitioners must administratively exhaust the categories of relief they are claiming and the individual issues on which that relief may turn, but not subsidiary legal arguments). Additionally, because the petitioner has failed to sufficiently argue the underlying merits of the agency’s decision before this Court, we deem any such arguments waived. *See Yueqing Zhang v. Gonzales*, 426 F.3d 540, 541 n.1, 545 n.7 (2d Cir. 2005).

\_\_\_\_\_For the foregoing reasons, the petition for review is DISMISSED. The pending motion for a stay of removal in this petition is DENIED as moot.

FOR THE COURT:  
Roseann B. MacKechnie, Clerk

By: \_\_\_\_\_